

**Federal Defenders  
OF NEW YORK, INC**

Southern District  
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MEMO ENDORSED

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Southern District of New York  
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April 28, 2023

**BY ECF & EMAIL**

The Honorable Kenneth M. Karas  
United States District Court Judge  
Southern District of New York  
300 Quarropas Street  
White Plains, New York 10601

Re: *United States v. Eriel Rivera*, 20-cr-250 (KMK)

Dear Honorable Judge Karas:

I write to respectfully request the Court order early termination of Mr. Rivera's supervised release. I have consulted Perry Carbone, Chief of the White Plains Division of the United States Attorney's Office, and Mr. Rivera's supervising Probation Officer, Claire Francisco, and neither object to this request.

**I. Procedural Background**

Mr. Rivera's case originated in the Western District of New York where he was convicted of possessing with intent to distribute 100 grams or more of heroin, violations of 21 U.S.C. §§ 814(a)(1), 841(b)(1)(B). He was sentenced on August 24, 2018, to a term of 41 months imprisonment to be followed by five years of supervised release. *See* ECF No. 2. Mr. Rivera was released to a halfway house in October 2019 and was officially released from BOP custody on March 27, 2020. An order transferring his supervision to the Southern District of New York was signed in April 2020 and he began to be supervised in this District.

**II. Mr. Rivera's Time on Supervision**

Upon release from a halfway house, Mr. Rivera immediately began working for Total Vein Therapy. *See* Letter from Vanessa Martinez, Executive Assistant, Total Vein Therapy, attached hereto as Exhibit A. He worked with that company until October 2020, when the company closed due to difficulties following the COVID-19 pandemic. *Id.*

Mr. Rivera then went to work for Elev8 Wellness Center, a detox program, where he worked from October 2020 until January 2022. He was then offered a position at Westhab, an organization that began as a way to address the affordable housing crisis in Westchester County and has grown to include community improvement and offers social services. He has continued to work for this organization and is currently responsible for providing support services to single adults living in a supportive housing environment. *See* Letter from Sarah Lonergan-Rothschild, MSW, attached hereto as Exhibit B. In his role as a Case Manager, he supervises adults, some of whom are on federal supervision themselves. He has also received a facilitator certification from Entrepreneurial Mindset on March 29, 2023. *See* Certificate attached hereto as Exhibit C.

He has been an active community leader and has help put together events in his community including the Inaugural Latin Food Fest of Yonkers last year, and a Family Fun Day Event in the Bronx in June of 2022. *See* Family Fun Day Flyer, attached hereto as Exhibit D. This year, he is again responsible for running the Latin Food Fest of Yonkers, which will take place starting June 24, 2023. In addition, the Mayor of Yonkers is honoring him with a proclamation on June 17, 2023, at a Father's Day Festival that he is responsible for hosting. As part of that honor, the mayor's office has released a biography of Mr. Rivera. *See* Biography of Eriel Rivera, attached hereto as Exhibit E.

In addition to his community work, he has continued to support and co-parent his three children, ages 12, 11, and 7. Upon his release he also participated in an intensive Residential Drug Abuse Program at the TRI Center Inc., which he completed in March 2020. *See* Letter from Adnan N. Munshi, attached hereto as Exhibit F. Following that treatment, he received therapeutic services at LifeStance Health from April 2020 until January 2021. *See* Letter from Theonyl Cuevas, LCSW, attached hereto as Exhibit G.

In addition to all of these activities, Mr. Rivera has a burgeoning film career. As his biography notes, he is working with Cultivate Entertainment, a Hollywood based company. *See* Exhibit E. Mr. Rivera has been in talks with them to sell scripts that he has written for potential movies and television shows. His ability to pursue this interest has been curtailed because of his supervision requirements.

### **III. The Court Has the Authority to Terminate Supervised Release**

The decision whether to grant early termination is committed to the discretion of the district court. *See, e.g., United States v. Sheckley*, 129 F.3d 114 (2d Cir. 1997). Under 18 U.S.C.



§ 3583(e), the court must first consider the relevant sentencing factors, which include the nature and circumstances of the offense, the history and characteristics of the defendant, and the need for deterrence and rehabilitation. After considering the sentencing factors, the court may terminate supervision “if it is satisfied that such action is warranted by the conduct of the defendant released and the interest of justice.” 18 U.S.C. § 3583(e)(1). Notably, the U.S. Sentencing Guidelines encourage courts to exercise their authority to terminate supervised release early in appropriate cases. U.S.S.G. § 5D1.2, cmt. (n.5). No change in circumstances is required for supervision to be terminated early. *See United States v. Parisi*, 821 F.3d 343, 347 (2d Cir. 2016). As Counsel for the Administrative Office of the U.S. Courts has noted:

It is a common misconception that early termination under 18 U.S.C. §3583(e)(1) must be based on an offender’s significantly changed circumstances or extraordinarily good performance under supervision . . . [A] court must simply be satisfied that the termination is warranted and is in the interest of justice.

*United States v. Trotter*, 321 F.Supp.3d 337, 364-365 (E.D.N.Y. 2018) (quoting Counsel for the Administrative Office of the U.S. Courts).

#### **IV. No Further Supervision is Warranted in this Case**

Based on the information outlined above, Mr. Rivera has demonstrated that he is someone for whom supervision has run its course. He is a self-motivated individual driven to succeed. He has worked on his own addiction issues as well as mental health issues while in the community. He has continued to be a loving and supportive father to his children. He has been steadily employed since his release and has gone above and beyond to be a productive member of his community having hosted multiple community events. He has completed three out of the five years of supervised release and has gotten everything he can from supervision. At this point, his supervision is hindering his ability to pursue a film career and has made it more difficult to travel. He also aspires to eventually holding public office and his continued supervision would hinder those goals.

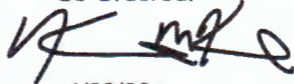
In considering the relevant sentencing factors, it is evident that Mr. Rivera requires no further supervision. While the underlying conduct was serious, he served a significant prison sentence for that conduct and has amply demonstrated his rehabilitation. It is respectfully submitted that his conduct on supervision demonstrates that termination is warranted and in the

interests of justice. Given the information regarding his stellar performance on supervision, it is respectfully requested that his supervision be terminated.

Thank you for your time and consideration.

Granted. Mr. Rivera's record while on supervised release is exemplary and continued supervision is therefore unnecessary.

So Ordered.

  
4/28/23

Sincerely,



Elizabeth K. Quinn  
Assistant Federal Defender  
Counsel for Eriel Rivera

cc: Perry Carbone, Chief of the White Plains Division, United States Attorney's Office  
Claire Francisco, USPO